

CELEBRATING 20 YEARS OF PROGRESS TOWARDS GENDER EQUALITY

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Introduction

There are many forums where I talk about what still needs to be done to advance gender equality; I often complain, advocate change and make recommendations.

But tonight I think we need to celebrate how far Namibia has advanced towards gender equality in the last 20 years. I was inspired to choose this theme because of an interview with a young woman on the street during an episode of Talk of the Nation. She felt that not much had changed for women since Independence; many young women in Namibia were “born free”, or were too young to have personal memories of pre-Independence times - and so were unaware of the significant advances made towards gender equality in the last 20 years. I was also inspired by the Prime Minister’s image in the first lecture in this series: of looking at a glass half-full or half-empty. I want to see the glass half-full, so tonight I want to focus on the progress made instead of the problems remaining. This approach is not intended to minimise the problems still experienced by women, or men for that matter, but it is important to take stock of successes from time to time and to look back over our shoulders occasionally, as we continue to march ahead.

The Namibian Constitution: Starting Point for Gender Equality

Women activists lobbied both individually and through church and political party structures for strong statements on women’s rights in the new Namibian Constitution. Unlike many other national constitutions, Namibia’s Constitution explicitly forbids sex discrimination. Some countries – such as the USA – do not even mention sex or gender, and many African countries make exceptions to the rules against sex discrimination in areas such as marriage, divorce and inheritance. (For example, only 21 out of a sample of 46 African Constitutions, including Namibia’s, make it clear that the provisions on discrimination take precedence over anything to the contrary in customary law.¹) Few constitutions go so far as Namibia’s to explicitly cover affirmative action *for women*; “equal rights as to marriage, during marriage and at its dissolution” for men and women; and policies on equal pay for equal work and maternity benefits. Namibia’s constitutional provisions on citizenship are completely gender-neutral, in contrast to the constitutions of many other African countries, which apply different rules on citizenship for men and for women.

Independence itself provided a strong starting point for gender equality. Although we have not yet succeeded in applying the constitutional provisions on gender to all spheres of life, the Constitution has changed the very atmosphere of the country when it comes to gender issues. Studies indicate that men and women in both urban and rural areas are aware of the changing legal and social status of women - not everyone thinks that this is a good

¹ AM Tripp et al, *Africa Women’s Movements: Transforming Political Landscapes*, Cambridge University Press, 2010.

idea, but most people know that “the law” says that men and women are now equal.² As one researcher put it: “While the exact wording of Namibia’s supreme law still remains unknown to the majority of Namibians, its spirit of gender equality has reached an amazingly broad spectrum of people.”³

Tax

The discrepancy in the taxation of married women and married men was discovered even before Independence when our Deputy Prime Minister happened to compare her paycheque, as a member of the Constituent Assembly, with that of a male colleague. His pay was higher because he was allowed more tax deductions on the theory that married men are always the family “breadwinners”.⁴ Female members of the Constituent Assembly were incensed. Our Minister of Justice commented: “Here I am having to pay more taxes and yet I am the one who, as well as doing my job, also look after the children, cook the food and clean the house.” Sex discrimination in the tax laws was removed by the new Namibian Parliament shortly afterwards.

Labour

To realise the significance of the new laws in this field, you have to remember that domestic workers – the sector where most women worked – were completely excluded from the basic working conditions in pre-Independence labour law. In addition, there was no legislated maternity leave for women in any type of employment.

Then came the Labour Act 6 of 1992. It prohibited discrimination in any aspect of employment on the basis of sex, marital status, family responsibilities and sexual orientation (amongst other things), as well as forbidding harassment on the same grounds. It also provided for three months of maternity leave for any woman who had been employed for at least one year by the same employer.

In 1994, maternity leave was supplemented by maternity benefits in terms of the Social Security Act 34 of 1994. This law represents one of the earliest lobbying successes for the women’s movement. The original proposal from the Ministry of Labour would have paid a decreasing amount of benefits for each child – 80% wages for the first child, 70% for the second, 50% for the third and 45% for subsequent births.⁵ Women banded together across party lines to protest against this approach, and they were heard – the final law provides identical benefits for maternity leave in respect of every child.⁶

The 1992 Labour Act still did not cover all domestic workers, as it excluded workers who were not employed more than two days per week by the same employer. That was

² See, for example, Debie LeBeau and Grant J Spence, “Community perceptions on law reform: people speaking out” in Justine Hunter, ed, *Beijing +10 The way forward: An introduction to gender issues in Namibia*, Namibia Institute for Democracy, 2004.

³ H Becker, “A Concise History of Gender, ‘Tradition’ and the State in Namibia” in C Keulder, ed, *State, Society and Democracy: A Reader in Namibian Politics*, Konrad Adenauer Foundation, 2000 (reprinted 2010).

⁴ See D Lush, “Assembly’s women complain about salaries”, *The Namibian*, 30 January 1990.

⁵ See Legal Assistance Centre, “Maternity Benefits-the Draft Act” (undated mimeo); Law Reform and Development Commission, “Preliminary Comments of the Women and Law Committee of the Law Reform and Development Commission on the Proposed Maternity Leave Benefit”, 24 June 1993; K Burling, “New plans leave women holding the baby... and not a great deal else”, *The Namibian*, 21 August 1993; K Burling, “Namibian women wake up to the layman’s ‘deal’”, *The Namibian* 27 August 1993 (“Anyone who thinks a woman would willingly endure morning sickness, nine months of increasing discomfort, the pain of childbirth, the sleepless nights which follow and the expense of raising and educating a child, simply to ‘score’ a few hundred rand, must, indeed, be a man.”); K Burling, “Women gear for action on maternity leave”, *The Namibian* 13 September 1993.

⁶ See “Memorandum to the Ministry of Labour & Manpower on the Establishment of the Social Security Fund”, prepared by Legal Assistance Centre and submitted by Bricks Community Trust, Council of churches in Namibia, Namibia Development Trust, Women’s Solidarity, NANTU, NUNW, NANSO, Legal Assistance Centre, Namibia Women’s Centre and NDAWU.

changed by the 2007 Labour Act, which applies to all employees. The new labour law now promises **maternity leave** to women who have worked more than 6 months for the same employer, and it prohibits discrimination on the grounds of pregnancy and HIV status as well as sex. It provides for **compassionate leave** for death or serious illness in the family—which should be of special benefit to women, who are often the caretakers in cases of illness. It also contains a strong new provision on **sexual harassment** – this gives women a name and a remedy for a problem that has been around for a long time – and that in turn enables women to identify it and fight against it.

Overall, however, as unemployment in Namibia has risen, the gap between men and women has widened. But there are nevertheless a few things to celebrate here. For example, women outnumber men in the public service 59-4, excluding political office-bearers and uniformed personnel.⁷

Affirmative action

The removal of barriers to labour force participation has been supplemented by various forms of affirmative action for women.

a) The **Co-operatives Act 23 of 1996** provides for women-only co-operatives, and requires the participation of women in the management of any cooperative with a substantial number of women members.⁸ One success story here is the **Eudafano Women's Cooperative**. This was brought home to me forcefully when I was recently travelling overseas, and was confronted in an airport by a huge poster of Namibian women in a branch of 'The Body Shop'. It was the women of Eudafano.

This cooperative markets marula products. It was founded in 1999 and currently involves more than **5000 rural women in 22 different branches in Northern Namibia**. It had total revenues of almost 75 000 US dollars in the *first half* of 2007. The women involved in this project can now pay school fees, buy school uniforms, buy food for the family and invest in livestock – and they also say that the benefits to them go beyond money, giving them a sense of increased independence, competence and confidence.⁹

In 2007 Eudafano won an "**Award for outstanding achievement in the field of Fair Trade natural products**", which is given annually to a group in Southern Africa that has played a pioneering role in promoting fair trading arrangements in the natural products industry. The judges said that they were impressed to see rural women taking charge of production, management and governance of the cooperative, as well as developing an innovative, organically-certified product.¹⁰ Eudafano is only one of several successful women's cooperatives in rural areas.¹¹

⁷ Public Service Commission of Namibia, *Annual Report: 1 April 2008 – 31 March 2009*.

⁸ This provision applies to any co-operative with more than five women amongst its members, or with women numbering more than one-third of its members (whichever is lesser); Section 9(b)(i) of the Co-operatives Act 23 of 1996 forbids discrimination amongst members on various grounds such as race and ethnic origin, but sex is not listed so as to allow for single-sex co-operatives as an affirmative action measure for women.

⁹ See case study by the Regional Trade Facilitation Programme at www.rtfp.org/media/eudafano_women_coop_case_study_28august07_2.pdf; see also Body Shop blog: <http://blog.thebodysshop.com.au/2008/02/marula-makes-make-up-fair.html>

¹⁰ 'PhytoTrade Africa Natural Products Awards 2007', <http://www.phytotradeafrica.com/awards/downloads/PhytoTrade-NP-Awards-Press-Pack-2007.pdf>

¹¹ For instance, the Cooperatives Division of the Ministry of Agriculture cites the following additional examples of successful women's cooperatives:

Kauvi Women's Co-operative: a service co-operative that is engaged in sewing of various products such as traditional dresses, mosquito nets, school uniform and duvets; located in Rundu in the Kavango region;
Ohandje Artists Co-operative: a service co-operative where members produce products such as baskets and clay pots; located in Oniipa in the Oshana Region.

b) The **Affirmative Action (Employment) Act 29 of 1998** is intended to improve the representation of blacks, women and disabled persons in the formal workforce. According to the last two reports of the Employment Equity Commission, women make up only about 15% of executive directors and just over one-quarter of senior managers. However, they are approaching parity with men in middle management and specialised supervisory positions. Individual affirmative action provisions apply to a number of statutory bodies and boards, reserving seats for women in bodies ranging from the Social Security Commission to the National Sports Commission.

c) The **Local Authorities Act 23 of 1992** requires that more than 30% of the people on every party list must be women - at least three women for councils of 10 or fewer members, and at least five women for councils with 11 or more members. This law has worked extremely well in practice – at the moment, 42% of local council members are women.¹² In contrast, Regional Councils (where there is no legal requirement for affirmative action) currently consist of only 11% women.

d) The local authorities law has been supplemented by advocacy from women for 50/50 representation at all levels of government and the use of zebra lists which alternate men and women.¹³

At the moment, women constitute over 30% of Namibia's Parliament.¹⁴ These percentages will slip a bit when the new National Assembly takes its seats, but **consider**

¹² This law originally required party lists to include at least two women for councils of 10 or fewer members, and at least three women for councils with 11 or more members. It was amended to increase the minimum number of women in 1997.

¹³ In the 2009 elections:

Three political parties show a very serious commitment to gender equality on their party lists. The **Communist Party** has significantly *more* women than men on its party list – 65% of its total of 29 candidates are women, with 60% women in the top 10 spots. **CoD** and **NDP** both utilise “zebra lists” alternating women and men throughout. All three of these parties are to be congratulated on their commitment to balanced gender representation.

The **UDF** and the **RP** tie for a close second place for the most gender-balanced lists, with 51% and 50% women respectively on their full lists of 72, but only 40% women in the top 10 slots – very close to the ideal of 50-50 representation, and also a serious effort to advance women.

DPN, **DTA**, **SWANU** and **APP** can be ranked in a four-way tie for third place on gender-balanced party lists. **DPN** has slightly fewer women than the other three parties on its full list (38%), but more women (50%) in the top 10. The other three parties all have 42% women on their full lists, but in smaller percentages in the top 10 slots – 40% for **DTA**, 30% for **SWANU**, and 20% for **APP**.

Three parties have women in only about one-third of the places on their total lists, with even fewer women in the top 10 slots. **NUDO** leads off within this category, with 30% women in the top 10, while **SWAPO** and **RDP** both have only 2 women in their top 10 places (20%). Interestingly, the manifestoes of all three of these parties make reference to gender balance - a commitment to fair representation of women in national government (**NUDO**), equal access for women in political activities (**SWAPO**) and a policy striving for at least 50% representation of women in government (**RDP**) – but none of these three parties seem to be fully practising what they preach on gender.

MAG has slightly more women on its full list (38%) – but *not a single woman in the top 10*. This is consistent with its stance against gender quotas. **Namibia DMC** does the most poorly in gender balance on both measures, with only 16% women on its full list and only one woman in the top 10 (10%) – in complete contradiction to its call for “at least 50%” representation of women “at all levels”.

D Hubbard & Y Engelbrecht, “Gender: are the parties serious?”, *Election Watch*, Issue No 7, 2009.

¹⁴ The National Assembly has 23 women out of 72 voting MPs (32%), while 26 out of the total 78 members are women if the six non-voting Presidential appointees are included (33%). D Hubbard & Y Engelbrecht, “Gender: are the parties serious?”, *Election Watch*, Issue No 7, 2009; information supplied by Parliament. There are currently 7 women out of 26 on the National Council (27%). (Namibia Institute for Democracy and Parliament of Namibia, *Guide to Parliament*, 2005) This gives a total of 30.6% for voting members, and 31.7% of non-voting members are included.

After the 2004 elections, women constituted 27% of MPs. This rose to 30% during the subsequent years as a result of women replacing male MPs whose seats became vacant for one reason or another.

how far we have come! Our first full Parliament, after both the National Assembly and the National Council had taken their seats, had only 6% women.

WOMEN IN PARLIAMENT		
National Council	National Assembly	Parliament (total %)
-----	Constituent Assembly (1989-1990) 5/72 (7%)	7%
1st NC: 1992-1998 1/26 (4%)	1st NA: 1990-1995 5/78 (6%)	6%
2nd NC: 1998-2004 2/26 (8%)	2nd NA: 1995-2000 14/78 (18%)	15%
2nd NC: 1998-2004 2/26 (8%)	3rd NA: 2000-2005 22/78 (28%)	23%
3rd NC: 2004-2010 7/26 (27%)	4th NA: 2005-2010 21/78 (27%)	27%

As a point of comparison, there are fewer than 17% women in the US Congress, which is more typical of the worldwide situation.¹⁵ On the other hand, Namibia falls behind Rwanda, Sweden and South Africa on this score.¹⁶

f) We also have a somewhat weaker form of affirmative action in respect of traditional authorities. The **Traditional Authorities Act 17 of 1995** required traditional authorities to “promote affirmative action amongst the members of that community”, particularly “by promoting women to positions of leadership”. In the **Traditional Authorities Act 25 of 2000**, the specific reference to “women” was deleted in favour of a more neutral reference to “promoting gender equality with regard to positions of leadership”.

Research in 1997 on traditional authority structures in four different regions found that, in all the communities studied, most women and men interviewed were of the opinion that women should be more involved in these structures.¹⁷ This change has not yet been fully accomplished, but there clearly is some positive movement in community attitudes.

g) Women are also moving into leadership positions in civil society. I am honoured to be standing here next to the second woman to head the **Council of Churches in Namibia**, and I can’t resist mentioning at this point that the **Legal Assistance Centre** has just appointed its first female director.

¹⁵ There are only 16.8% women in the two Houses of Congress. Center for American Women and Politics, Fact Sheet, “Women in the US Congress 2010”.

¹⁶ Women’s representation in the South African national assembly has jumped to 45% since the country’s 2009 elections, giving South Africa a third place spot in the global women in parliament rankings. South Africa now sits just behind Rwanda (56%) and Sweden (47%) in the global rankings. Information from Gender Links, a Johannesburg-based NGO that focuses on research, training and advocacy for achieving gender equity.
www.sagoodnews.co.za/benchmarking_progress/sa_is_ranked_3rd_for_womens_representation_in_parliament_.html

¹⁷ H Becker, “A Concise History of Gender, ‘Tradition’ and the State in Namibia” in C Keulder, ed, *State, Society and Democracy: A Reader in Namibian Politics*, Konrad Adenauer Foundation, 2000 (reprinted 2010).

Gender-based violence

More than 1100 cases of rape & attempted rape are reported to the police annually (about 60 for every 100 000 people). These numbers more than doubled from Independence to 2005, during a period when the population increased by only about 8%. But we don't know if this is due to an increase in the number of rapes being committed, or an increase in the number of crimes which are being reported, or a mixture of these two factors. Ironically, it is possible that there could be an increase in reporting as a result of the improving status of women -- which makes it more likely that they will speak out about violations they have experienced.¹⁸

One particularly disturbing factor is that the vast majority of rapes are committed by family members or acquaintances of the victim. Various studies indicate that 1 out of 3 Namibian women have experienced intimate partner violence.¹⁹ More than one-fifth of all violent crime in Namibia occurs within the context of domestic relationships.²⁰ Even more worrying are attitudes. The 2006/2007 *Namibia Demographic Health Survey* asked both men and women if it is justifiable for a husband to beat his wife in a range of circumstances: if she burns food, argues with him, goes out without telling him, neglects the children or refuses sex - 41% of men and 35% of women thought that beating was acceptable in at least one of those situations.

One bit of good news is that a 2008 study of men and women in 8 regions found that more than one-half of them say that it is LESS culturally acceptable now than at Independence for a husband to discipline his wife by slapping her – which is a good sign that attitudes are slowly changing.²¹

Since Independence, Namibia has adopted a remarkable new legal framework in this area. The **Combating of Rape Act 8 of 2000** was the result of years of concerted lobbying by a coalition of women's groups.²² For example, the Multi-Media Campaign on Violence

YEAR	TOTAL
1991	564
1992	583
1993	611
1994	741
1995	801
1996	830
1997	778
1998	714
1999	687
2000	854
2001	901
2002	975
2003	1 117
2004	1 151
2005	1 184

¹⁸ Men accounted for 6-8% of these cases in 2003-5, and for less than 3% in 2008. Children under 18 are the victims in more than one-third of the reported cases (36.5% in 2008).

¹⁹ See the overview of Namibian studies on domestic violence in forthcoming Legal Assistance Centre report on the implementation of the Combating of Domestic Violence Act.

²⁰ Legal Assistance Centre (LAC) and Law Reform and Development Commission (LRDC), *Domestic Violence Cases Reported to the Namibian Police: Case Characteristics and Police Response*, Windhoek: LAC and LRDC, 1999.

²¹ SIAPAC (for the Ministry of Gender Equality and Child Welfare), *Knowledge, Attitudes and Practices Study on Factors and Traditional Practices that may Perpetuate or Protect Namibians from Gender Based Violence and Discrimination: Caprivi, Erongo, Karas, Kavango, Kunene, Oshana, Oshana-Namaland and Otjozondjupa Regions*, 2008, Table 6 at page 54.

²² Beginning even prior to Independence, numerous appeals for law reform on rape were made to government by a diverse spectrum of organizations, through public demonstrations, letters, petitions and advocacy through the media. But government action on rape law reform did not really move forward until after a series of public demonstrations took place in response to the tragic rape of a young girl in 1997. These demonstrations were co-ordinated by the Multi-Media Campaign on Violence Against Women and Children, an umbrella organisation launched in August 1996, which brought together a range of government and non-government groups. In July 1997, the Law Reform and Development Commission (LRDC) published a *Report on the Law Pertaining to Rape*. According to the introduction contained in this report, its publication was speeded up at the request of the Minister of Justice as a result of the “public outcry for urgent action backed up by demonstration”. *Report on the Law Pertaining to Rape*, LRDC 4, July 1997 at 1. The shape of the final law was also significantly influenced by NGO input. The Legal Assistance Centre made a detailed submission on behalf of a range of groups to the Parliamentary Committee tasked with reporting on the initial bill, and most of the proposals put forward to the Committee were included in the Committee recommendations and

Against Women and Children led a protest action in Windhoek after the rape of a 2-year-old girl in Tsumeb in 1997, with protesters gathering at lunchtime every Thursday for a month at the kudu statue.

The new law contains a broad, gender-neutral definition of rape which covers a range of sexual acts and focuses on the presence of “coercive circumstances”, instead of the “absence of consent”, to ensure that the rape survivor is not treated as if she were the one on trial. It also gives increased protection to children – both girls and boys and increases protection for the victim’s privacy and dignity. A hotly-debated provision specifies that “No marriage or other relationship shall constitute a defence to a charge of rape”. Finally, the law sets stiff minimum sentences for rape.²³ The Combating of Rape Act 8 of 2000 has been hailed as one of the most progressive laws on rape in the world.²⁴

The **Combating of Domestic Violence Act 4 of 2003** was also the result of intense advocacy by a wide grouping of women. For example, some 250 people demanded a law on this topic at the opening of Parliament in February 2003. Police pointed weapons at the demonstrators, but inside Parliament, President Sam Nujoma was emphasising the problem of violence against women and children in his official speech:

I would particularly like to express my concern about the recent spate of violent crimes directed against women and children. These crimes represent a gross violation of the fundamental rights of our citizens, while causing unwarranted damage to the good name of our country. These despicable acts of barbarism must therefore be roundly condemned and completely uprooted.²⁵

The law covers a range of forms of domestic violence, including sexual violence, harassment, intimidation, economic violence and psychological violence. It applies to “domestic relationships”, including those between husbands and wives, parents and children, boyfriends and girlfriends, and close family members. It gives those who have suffered violence an alternative to laying criminal charges, by setting up a simple procedure for getting a protection order from a magistrate’s court. In cases of physical violence, this protection order can direct the abuser to leave the common home. No new crimes are created by the law, but existing crimes between persons in a domestic relationship are classified as “domestic violence offences” and made subject to special provisions which encourage input from the victim on bail and sentencing, and protect the victim’s privacy.

To help put these laws into action, Namibia created **specialised police stations for gender-based violence**. The first Woman and Child Protection Unit was established in 1993, and now there are 15 of them, covering every region in the nation. There are also now special procedures to reduce the trauma of court appearances in violence cases: the **Criminal Procedure Amendment Act 24 of 2003** provides special measures for vulnerable witnesses

incorporated into the final law. See *Report on the Combating of Rape Bill by the Parliamentary Standing Committee on Human Resources*, February 2000.

²³ The development and implementation of the Combating of Rape Act was comprehensively analysed in *Rape in Namibia: An Assessment of the Operation of the Combating of Rape Act*, Legal Assistance Centre, 2006. The recommendations for fine-tuning the statute put forward in this report are currently being taken forward by the Law Reform and Development Commission. See *Reforming the Rape Act, Discussion Paper No 1, Project No 17*, Namibian Law Reform and Development Commission, June 2009, noting at page 3 that the decision to embark on this project “emanated from proposals for reform by Ms Dianne Hubbard of the Legal Assistance Centre”.

A follow-up study on why so many complainants seek to withdraw rape cases, *Withdrawn*, was published by the Legal Assistance Centre in 2009.

²⁴ “The Combating of Rape Act 8 of 2000 is one of the most progressive laws on rape in the world. Implicit in the Act is a recognition that rape is not a sexual crime, but that it is a crime of violence and power which uses sex as a weapon to humiliate and destroy.” Narnia Bohler-Muller, “Valuable lessons from Namibia on the combating of rape”, *South African Journal of Criminal Justice*, Vol. 14, No. 1, 2001 at 74.

²⁵ Chrispin Inambao, “President Nujoma condemns violence against women and children”, *The Namibian*, 12 February 2003.

to reduce the trauma of court testimony – such as alternative venues for trials, testimony behind one-way screens or via closed-circuit television, and use of support persons and intermediaries.

There are admittedly still some problems with the **implementation** of all of these laws, but they are all being utilised. For example, protection order applications have been filed at every single magistrate's court in the country.²⁶ And there is definitely increased public **awareness** of the problem of gender-based violence. One exciting development is that men have become involved in advocating an end to gender violence in groups such as Namibian Men for Change & the White Ribbon Campaign.

Changes in family law and family life

As an illustration of how much life has changed, consider the following question: *Before Independence, which of the following could married women do without the consent of their husbands?*

- a) buy or sell their own property?
- b) register land in their own names?
- c) take out a loan?
- d) drive a car?
- e) be a director of a company or a trustee?

Driving a car is the only thing on the list that did not require the husband's consent.

This was all changed by the **Married Persons Equality Act 1 of 1996**. This controversial law eliminated the discriminatory Roman-Dutch concept of marital power previously applicable to civil marriages in Namibia. Marital power placed wives in a similar position as minors, while husbands had the right to administer the property of both spouses. Now couples married 'in community of property' must consult each other on most major financial transactions, while husbands and wives married 'out of community of property' have the right to deal with their separate property independently. The most contentious provision was the one which abolished the automatic position of the husband as head of the household. The bill was passed only after an intensive advocacy campaign by Namibia's women's movement, including a demonstration on the steps of the Parliament building.

The next major family law reform was the **Communal Land Reform Act 5 of 2002**. There was a complex background to this law. Parliament passed a resolution requesting traditional leaders to allow widows to remain on their land in 1992, and in 1993 Traditional Authorities in the north-central regions revised customary laws to help secure the land tenure of widows. The 2002 law gives women further protection by ensuring that a widow has a right to remain on communal land allocated to her husband after his death -- even if she remarries. One recent study concluded that customary land rights of widows appear to be much more secure now than at Independence. Although evictions of widows still occur, informants were unanimous in their assessment that this happens infrequently-- although the practice of 'property grabbing' still leaves many widows without the necessary means to cultivate their land, and sometimes even without adequate shelter. This is a problem which must still be tackled.²⁷

The next new law in this field was the **Maintenance Act 9 of 2003**. The difficulty of securing child support from absent fathers was the subject of intensive and regular advocacy by women's groups for many years, including a nation-wide lobbying campaign in 1998. The 2003 law replaced a 1963 law, making significant changes to the maintenance system to make it more efficient. The 2003 law provides for the sharing of expenses incurred during pregnancy, and makes it clear that all children must be treated equally – whether born in or out of marriage and no matter what the order of birth. It also provides new methods of

²⁶ See forthcoming LAC study.

²⁷ Wolfgang Werner, *Protection for Widows in Namibia's Communal Land Reform Act: Is It Working?*, Legal Assistance Centre, 2008.

enforcement to use when maintenance orders are not obeyed, and it penalises failure to use maintenance money for the child’s benefit.

Much has been done, but there are many family laws and practices still to be tackled. There is still a need to provide for the full **recognition of customary marriage**, and to give husbands and wives equal powers during marriage as has been done in the case of civil marriage. Law reform in this area is likely to inspire heated debates on issues like lobola and polygamy. There is a need for new rules and procedures for **divorce** in both customary marriage and civil marriage to replace the antiquated laws now in force. There is a need to revise **marital property** schemes for civil and customary marriage, to give better protection for both husbands and wives against wrongdoing by the other spouse. There is a need to reform the law on **inheritance** to remove discrimination on the basis of race, sex or order of birth, and to ensure that widows, children & other dependents are adequately provided for. There is also a need to explore possibilities for legal protection for **cohabiting couples**, to protect vulnerable parties.

Current outlook for Namibian women

Does a young girl born in Namibia today have better chances in life than one born 20 years ago? I believe so. Even against the backdrop of serious problems like the rise in maternal mortality rates²⁸, the impact of the HIV pandemic and the disproportionate impact of poverty on women, there are some bright spots for women.

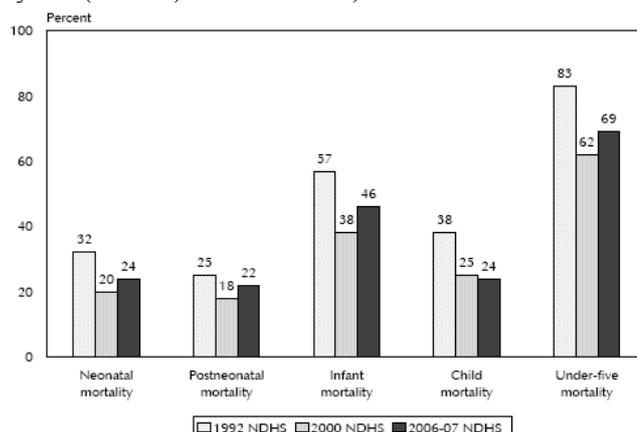
The **fertility rate** has declined since Independence – and this is something which almost always accompanies a rise in women’s education and empowerment. The total fertility rate at Independence was about 5.4, and is currently down to **3.6 children per woman** on average – a rate which is lower than that of many of our neighbours in southern Africa.

The government is working in collaboration with stakeholders from many sectors -- including government, civil society and the private sector -- on a **Maternal Health Initiative** which involves a range of innovative efforts: specialised training of nurses and midwives, reduced waiting time at antenatal clinics, improved patient transport & a campaign to increase public awareness of the importance of antenatal care.

Another bright spot is the successful roll-out of medication to prevent **mother-to-child-transmission of HIV**. UNICEF recently reported on the 20 countries in the world with the largest rates of HIV infection, to see if they were on course to meet the target of

²⁸ “Maternal mortality has been on a steady increase from an estimated 225 deaths per 100 000 live births in 1992 to the 2006 figure of 449 deaths per 100 000 live births...” Wezi Tjaronda, *Rise in Maternal Deaths Worrisome*, *New Era*, 11 March 2009; see Ministry of Health and Social Services, *Namibia Demographic and Health Survey 2006-07*, Windhoek, 2008.

Note that the UNICEF report on the *State of the World’s Children 2009* indicates an overall decrease in infant and child mortality rates since Independence; the under-5 mortality rate in 1990 was 72, down to 42 in 2008; the infant mortality rate (under 1) in 1990 was 49, down to 31 in 2008.



providing about half of all HIV-positive pregnant women with this treatment -- only four of these countries passed the test, and Namibia was one of them.²⁹

Another positive development is that there has been a **decline in teen pregnancy** since Independence. Further, it is great cause for celebration to see that **female school enrolment has showed consistent improvement over the years**. In 2009, there were virtually equal numbers of girls and boys in primary school, and 116 girls for every 100 boys in secondary school. For many years, boys outnumbered girls in Grades 11-12, but that trend has been reversed in the last few years.³⁰ Girls are more likely to remain in school in strong numbers since Cabinet recently approved a **new, flexible policy on learner pregnancy** with a double emphasis: on prevention and on encouraging learner parents to complete their education. And girls who are in school have **wider career choices** now—before Independence, girls who hoped for a profession would have considered very limited options: nurse, teacher or social worker. Now there are more women than men at both UNAM and the Polytech, with women roughly equalling or outnumbering men in 2007 in most subjects, except engineering, information technology & natural resources.³¹ Now a young girl can look around her and see female role models in a range of professions – including lawyers, doctors, & government ministers. She might even dream of becoming the first woman President of Namibia.

There are changes even in things that are seemingly small – at Independence, you rarely saw a woman behind the wheel of a car -- now my daughter is taking driving lessons from a woman who used to drive heavy machinery at one of the Namibian mines!

Namibia and the rest of the world

When it comes to key international and regional treaties on gender, Namibia has a very good track record— one memorable moment was the day that a group of grassroots women from a variety of churches gathered to watch President Nujoma sign CEDAW back in 1992. Namibia has joined in so many of the key international agreements on women that it would take too long to list all of them.

To see how Namibia compares to the rest of the world, consider a few international gender indexes – These indexes do not measure the country's development, but only the degree of difference between males and females.

- a) **Global Gender Gap Index 2009:** The Global Gender Gap produced by the World Economic Forum measures the size of the gender inequality gap in four critical areas: 1) **Economic participation and opportunity** (salaries, participation levels and access to high-skilled employment); 2) **Educational attainment** (access to basic and higher level education); 3) **Political empowerment** (representation in decision-making structures); 4) **Health and survival** (life expectancy and sex ratios at birth). Namibia ranked 32 out of 134 countries in terms of gender equality overall, and 3rd most gender-equal country in Africa after South Africa and Lesotho.³² Press reports have focused on the fact that Namibia's rank has fallen in recent years, but this appears to be because other countries have done better and not because Namibia has done worse – on the scores used to

²⁹ **A Report Card on Prevention of Mother-to-Child Transmission** of HIV and Paediatric HIV Care and Treatment in Low- and Middle-Income Countries: Progress on scaling-up 2004-2006, Executive Summary, November 2007; Ministry of Health and Social Services, *Namibia United Nations General Assembly Special Session (UNGASS) Country Report: Reporting Period April 2006 – March 2007*, 2008.

³⁰ Ministry of Gender Equality and Child Welfare, *NAMIBIA COUNTRY REPORT: 1995-2009 on the Implementation of the Beijing Platform for Action, Beijing +15*, 2010; EMIS statistics for 2008 and 2009 (Table 11).

³¹ Ministry of Gender Equality and Child Welfare, *NAMIBIA COUNTRY REPORT: 1995-2009 on the Implementation of the Beijing Platform for Action, Beijing +15*, 2010.

³² Rwanda, which did well in other indexes, was not ranked.

produce the rankings, Namibia has continued to climb – and Namibia has done particularly well in closing the gender gap on respect of education.

b) Gender Equity Index 2008-09: The Gender Equity Index was introduced by an international NGO called Social Watch in 2004 to measure inequities in women's and men's everyday lives around the world. The 2008 index ranks 157 countries by measuring women's relative position in three areas: 1) **economic activity** (economic activity rate, estimated earned income); 2) **empowerment** (% of women in technical positions, management and government positions, parliament & ministerial posts); 3) **education** (literacy rate, enrolment in primary school, secondary school and tertiary education). The index scores countries on a scale of 0 (most unequal) to 100 (most equal). In 2008, Namibia scored 71 which put it at the 45th spot out of 157 countries. Rwanda was the only African country ranked higher (5th spot). South Africa was ranked 49th, Botswana 66th and Lesotho 73rd. Namibia had 71 points again in 2009, but no ranking table is yet available.

c) Human Development Index & Gender Development Index 2009: Every year since 1990, the United Nations Development Programme (UNDP) has compiled a **Human Development Index** which looks at three dimensions of human development: living a long and healthy life (measured by life expectancy), being educated (measured by adult literacy and educational enrolment) and having a decent standard of living (measured by the purchasing power of per capita income). Since 2005, UNDP has also compiled a **Gender-related Development Index** which examines the gender gap in these same areas. For a measure of gender inequality, the ranks in respect of these two measures must be compared. In 2009 Namibia ranked 46 out of 155 countries in respect of its relative gender equality.

d) Gender Empowerment Measure 2009: UNDP's Gender Empowerment Measure is based on gender comparisons in political participation and decision making, economic participation and command over resources. Namibia is ranked 43 out of 109 countries in the Gender Empowerment Measure for 2009.

In general Namibia tends to rank quite well, considering that we are competing with countries that have a history of freedom far longer than 20 years – and Namibia also tends to be amongst the few African countries to rank so highly. It will be interesting to see where Namibia is on these indexes 10 or 20 more years down the line.

Conclusion

What I find most important is not just that we can list some concrete accomplishments in the field of gender equality, but that Namibia has changed the dynamics surrounding gender. A sample of people in 8 regions were recently asked to agree or disagree with this statement: "Really, things have changed in Namibia since Independence, women can stand up for their rights now." An overwhelming majority of men and women agreed that this statement is true. And I think that is a sign that tonight we can celebrate a process of real *transformation* towards gender equality.³³

We are not there yet. We have not yet achieved gender equality. That glass I spoke about at the beginning may actually be only one-quarter full instead of half-full – but SOME OF IT IS CHAMPAGNE!

³³ SIAPAC, *Knowledge, Attitudes and Practices Study on Factors that may Perpetuate or Protect Namibians from Violence and Discrimination: Caprivi, Erongo, Karas, Kavango, Kunene, Ohangwena, Omaheke and Otjozondjupa Regions*, Ministry of Gender Equality and Child Welfare (MGECW), 2009.